

العناية بتفصيل الهداية



A TRANSLATION OF AL-HIDAYAH
"THE CHAPTER OF PURIFICATION"

BY HUMAIR NASIM

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Translator's foreword

الحمد لله و الصلاة و السلام على رسول الله

First it should be pointed out that this translation does not substitute class or an actual teacher. I mainly wrote this for myself, because Hidayah is fairly obscure and concise.

From what I understood, there already is a translation available. The problem with most fiqh books that are translated, though, is that they don't really mean anything. They don't convey any meaning. You'll find this translation to actually be beneficial إن شاء الله. I tried to make it as comprehensive as possible.

This translation is incomplete and unchecked, let that be clear. I would like to thank my teacher for teaching this book with the depth that he did, may Allah increase his knowledge and preserve him.

Thus there shall be mistakes, inevitably. May Allah forgive those and all my other mistakes as well. I ask you to make du'a for me, that Allah increases my knowledge and gives me death in the state of imaan.

و بالله التوفيق

- What is **fard** in purification is the washing of the 3 body parts plus the wiping of the head.

فَاغْسِلُوا وُجُوهَكُمْ وَأَيْدِيَكُمْ إِلَى الْمَرَافِقِ وَامْسَحُوا بِرُءُوسِكُمْ وَأَرْجُلُكُمْ إِلَى الْكَعْبَيْنِ (6 al-Ma'idah)

Definition of غَسَلَ (washing): إِسَالَة (making flow)

Definition of مَسَحَ (wiping): إِصَابَة (making reach)

Boundaries of the face: top of the hairline to bottom of the chin and from earlobe to earlobe

- Elbows and ankles are included in the washing

Ankle: protruding bone.

Zufar: He opposes this, saying: The غَايَة (endpoint) is not included in the مَغْيَا (what's prior to it), just like in the chapter of fasting (i.e. إِلَى اللَّيْلِ). In reality he says إِلَى could be for إِسْقَاط or اِمْتِدَاد, since no reason for تَرْجِيح, pick former.

We retort: This غَايَة is for إِسْقَاطُ مَا وَرَاءَهَا, if it weren't, then it'd include full arm. In the chapter of صَوْم the إِلَى is for اِمْتِدَاد الْحَكْم; because اِمْسَاك could even be for a second, so with إِلَى we extend it till the night. The يَد has a limit: fingers to shoulders - so we do تَعْيِينَ الْغَايَة. But صَوْم doesn't: could be second or ages - so we do اِثْبَات الْغَايَة.

- The extent of wiping that is fard is the amount of the forehead, i.e. 1/4th of the head.

Due to the narration of Mughirah bin Shu'bah: The Holy Prophet arrived at the waste site of a nation, then urinated, performed wudu and wiped his forehead and leather socks.

Dispute: The Qur'an is مُجْمَل and the hadith further clarifies "part of head" (we take بَاء for تَبْعِيض). This disproves Imam Shafi'i in stipulating only 3 hairs, as well as Imam Malik, who said you need to wipe the full head (took بَاء as زَائِدَة).

Some of our scholars stipulated amount of the hand: 3 fingers, because that is the majority of the hand.

- **Sunnahs** of purification are: 1) washing of the hands prior to entering them into a water vessel, if you just woke up. (They used vessels back then.)

Because the Holy Prophet said: *When one of you awakens from sleep, let him not immerse his hand into utensils until he washed it thrice. For he doesn't know where his hand spent the night.*

The hand is a tool of purification, so starting by cleaning it is Sunnah. This refers to till the wrist.

- 2) Tasmiyyah at the beginning.

Because the Holy Prophet said: *There is no wudu for the one who didn't recite Bismillah.*

Meaning: negation of blessings.

One should also recite it prior to istinja.

The most correct opinion is that it is مستحب. [Mufta bihi: it is Sunnah per Tahawi and Qudoori.]

- 3) Miswaak.

Because the Holy Prophet was persistent with it. If not present he'd wipe with his finger.

- 4) Rinsing mouth and nose.

Not gargling or sniffing up so high it hurts. The Holy Prophet was persistent on this as well.

Manner: Rinse thrice, new water each time. Then rinse nose like that.

- 5) Wiping of ears.

Sunnah to do so with the same water you wiped your head with.

Imam Shafi'i: He opposes this by the hadith: *Ears are part of the head.*

We say that the intent was بيان الحكم (explaining a ruling), not بيان الخلقة (autonomy class).

- 6) Doing takhleel of the beard.

Abu Yusuf: It is Sunnah (mufta bihi).

Tarfayn: It is permissible. Because Sunnahs are meant to perfect the fard in their own محل and the beard is not the محل of fard anyway. [The reasoning is wrong - many Sunnahs aren't for إكمال].

- 7) Takhleel of fingers

The Holy Prophet said: *Do Takhleel of your fingers so the fire of Hell doesn't pass through them.* (It is also إكمال of a fard in its محل.)

- 8) Washing thrice

The Holy Prophet did wudu washing everything once and said: This is wudu, Allah doesn't accept prayer but with this. Then he washed everything twice and said: This is the wudu of the one for whom Allah doubles the reward. Then he washed everything thrice and said: This is my wudu and that of the Prophets prior to me. Whoever increases or decreases has surely transgressed and done wrong.

The punishment is for the one who denies its being Sunnah.

- **Mustahabaat** of wudu: 1) Intending purification

Imam Shafi'i: He says it is fard, as it is worship, so intention must be attached.

We say: It is Sunnah, you don't get reward save through it. It is a tool for prayer, because process of purification is achieved by using a مَطْهَر. In Tayammum you don't use a مَطْهَر, so intention is necessary.

- 2) Fully wiping the head.

In reality this is Sunnah, not mustahab.

Imam Shafi'i says that doing it three times is Sunnah, with new water each time.

Our proof: Sayyiduna Anas did wudu washing three times but wiped the head once and said: *This is the Wudu of the Messenger of Allah.*

Whatever is narrated regarding wiping 3x is interpreted as "with the same water." Because using new water constantly would make it washing, not wiping.

- 3) Maintaining order in wudu, as mentioned in the verse, and starting from the right side.

Shafi'i: Tarteef is Fard. He makes the تعقيب فاء for.

We say: It is Sunnah; the واو follows after and it is for general addition/compounding. Starting from the right is blessed, as per the saying of the Holy Prophet: *Surely Allah loves starting from the right side in every matter, even in putting on shoes and combing the hair.*

CHAPTER REGARDING INVALIDATORS OF WUDU:

- Invalidators of wudu: 1) Anything that exits from the 2 pathways.

Proofs:

1. (al-Nisaa 43) أَوْ جَاءَ أَحَدٌ مِّنَ الْغَائِطِ.

2. The Prophet was asked: What is impurity? He responded: *Anything that exists from the 2 pathways.*

- 2) Blood and pus exiting from the body and traversing to a place that would need to be purified during ghusl.

Shafi'i: What exits from other than the 2 pathways doesn't break wudu. The proof is the hadith in which the Holy Prophet vomited and didn't do wudu. Besides, washing bodyparts where impurity didn't reach isn't rationalized in the first place (e.g. you urinated, but you need to wash your face etcetera). So we'll stick to whatever has been stipulated - i.e. the 2 pathways.

We retort with the statement of the Holy Prophet: *Wudu becomes necessary due to all flowing blood. Plus: Whoever vomits or has a nosebleed during prayer, let him turn away [from prayer] and perform wudu. Then let him continue [his prayer] from where he left off as long he didn't speak in the meanwhile.*

Exiting of impurity having an effect on one's purity - i.e. ending it - is understood. Only the restriction to washing for 4 bodyparts is not understood. Since it is at least partially understood, the ruling of invalidating wudu can be transferred from the 2 pathways (أصل) onto blood and pus (فرع). So upon exiting and flowing of blood and pus, your wudu will be invalidated and you have to wash the four bodyparts.

Further elaboration: Regarding the pathways, the impurity is established upon appearance (ظهور). That is because the impurity traverses from its place of origin (i.e. intestines) to the penis. So all that is needed to establish impurity is its appearance.

Regarding blood and pus, the impurity is established upon its flowing, not appearance. The reason being that when blood and pus become apparent, they haven't left their place of origin (which was that same spot under the skin), it merely became apparent. So if it flows, then it has left its place of origin. Thus flowing is considered, not appearance.

- 3) Vomiting a mouthful.

Vomiting a mouthful would be a state where you can't prevent it, save with strain and effort.

Dispute: **Zufar** says that both a mouthful and less than it invalidate wudu; likewise, he doesn't make flowing of blood a condition for invalidating wudu. He bases this on the hadith: *Vomit is an impurity.*

We retort with the hadith: *In a drop or two of blood there is no invalidator of wudu, save that it flows.* As well as the statement by Ali, listing the impurities: *And vomit that fills the mouth.* We reconcile all reports as follows: The narration by Zufar is understood as a mouthful, **the narration of Shafi'i** as less than a mouthful.

What is considered in the vomiting amount - cause or sitting?

1. **Abu Yusuf** says that each sitting will be considered: How much did a person vomit in one sitting? If he vomited in 3 separate sittings less than a mouthful each but it totals to more than a mouthful, wudu won't break according to him.
2. The fatwa is on **Muhammad's** statement: the cause is taken into consideration - not the sitting. So if you vomit more than a mouthful due to the same cause, even if in several sittings, your wudu will break.

Note: Whatever isn't an impurity (نجس), will not be impure (حدث).

- This mentioned ruling applies if he vomits bile [maagzuur], food or water. If he vomits phlegm, then it won't break wudu.

Regarding vomiting phlegm:

Abu Yusuf says that a mouthful will still break wudu; he says it is impure because it neighbors impurities.

Tarafayn says wudu won't break; phlegm is thick and doesn't admix with impurities. Even if it does, it'd only be a little, which isn't an invalidator in vomit.

Regarding vomiting blood:

If one vomits blood and it's a blood clot, then its being a mouthful will be considered (only then will wudu break). If the blood flows then the ruling is per usual. Shaykhayn say that any blood - a lot or a little - will break wudu as the stomach isn't a محل for blood. So if it comes from there, it's due to a wound. Its ruling will be per usual - i.e. if it flows (which it does) it will break wudu.

- If blood flows from the head to the soft part of the nose then wudu will break with consensus.

Because it will reach a place that needs to be purified in ghusl.

- 4) Sleeping lying down, leaning and supporting on something that if it were to be taken away, you'd fall.

Sleep breaks wudu if **both** of the following things are found:

1. Buttocks being lifted
2. The position allowing deep sleep (i.e. body parts are loose).

If only one is present, then wudu won't break.

Lying down is a cause for the loosening of body parts. The exiting of something is inevitable most of the time and that which is established most of the time is like being certain.

Based on the 2 conditions, wudu will not break if you are leaning on something and sleeping deeply if your buttocks are planted firmly, neither will it break during any position in prayer (if one falls asleep). The proof for this is the hadith: Wudu is not incumbent upon the one who sleeps standing, sitting, bowing or prostrating [in prayer]. Wudu will only be incumbent upon the one who sleeps lying down - because when he sleeps lying down, his body parts loosen.

- 5) The being overcome of the mind through unconsciousness and madness.

[In unconsciousness, the mind is overcome (مغلوب), but it's still there. In case of madness, the mind is missing (مفقود).]

The reason for this ruling is the fact that these states are greater in loosening the body parts than sleeping lying down. Unconsciousness will impurify you in every case, no exceptions. That'd be the logical conclusion for sleep too, but we know of exceptions through hadith.

- 6) Laughing out loud (قهقهة) in every prayer that consists of bowing and prostrating.

Laughing loudly (قهقهة): That which is heard by the person himself and his neighbors. Invalidates wudu and prayer.

Laughing (ضحك): That which is only heard by the person himself. Only invalidates prayer.

Shafi'i: The logical thing would be for it to not invalidate wudu, because it isn't the exiting of an impurity, hence it isn't an impurity in the funeral prayer, Sajdah Tilawat, and outside of prayer.

Our proof: The hadith: *Take heed! Whoever from you laughs loudly, let him repeat his wudu and prayer altogether.* The hadith mentions prayer in general, so what is understood is a complete prayer - i.e. it contains bowing and prostrating. For that reason, the ruling is confined to complete prayers only.

- 7) An insect that exits from the backside. But if it exits from the head of the wound or due the removal of skin from the wound, it won't break wudu.

This is because in the former scenario, the impurity is on the insect. Unlike in the latter case.

Wind exiting from the penis or vagina doesn't invalidate wudu, as it doesn't arise from a place of impurity. In case a woman's 2 pathways are merged, it'd be مستحب for her to do wudu, as the wind could possibly have exited from the backside.

- 8) If a blister is peeled and water, pus or something else flows from the head of the wound. If it doesn't flow then it doesn't break wudu.

This ruling applies whether the blood flows by itself or it is made to flow by squeezing. That is the correct opinion.

CHAPTER REGARDING GHUSL

- The fara'id of ghusl are: 1) rinsing the mouth; 2) rinsing the nose; 3) and washing the rest of the body.

Note: #1 doesn't include gargling and #2 doesn't mean sniffing the water up so high that it hurts.

Shafi'i: He opines that 1) and 2) are Sunnah, basing it on the following hadith: *Ten things are from nature* (فطرة). The word فطرة is taken as سنة, as these 10 things are required for one's sound nature. Among the 10 things were 1) and 2). Hence they are Sunnah in wudu.

We contend with the verse:

وَإِنْ كُنْتُمْ جُنُبًا فَاطَّهَّرُوا (6 al-Ma'idah)

This is a clear command to purify, which means purifying the entire body, save that which can't be reached by water (the difficult spots). This is in opposition to wudu - the commanded there is to wash the face. The definition of the face was based on مواجهة and the inside of the mouth and nose aren't included in that.

Our reply to the hadith used by Shafi'i is that what is intended is "during the state of impurity." We derive that based on the following hadith: *Indeed they [rinsing the mouth and nose] are fard in the state of impurity and sunnah during wudu.*

- The sunnahs of ghusl are: to begin by washing one's hands and private parts. Then he should remove any impurity from his body and perform wudu like he would for salah, but leaving his legs out. Then he pours water on his head and the rest of his body thrice. After that he should move away from that place and wash his feet.

Sayyidah Maimoonah has narrated the Holy Prophet's ghusl as such. The reason why the washing of feet is delayed is because the water gathers there, so the water would be مستعمل (used prior). He should remove physical impurity first lest it spreads during ghusl.

- A woman needn't undo her plaits as long as the water reaches the roots of her hair.

Sayyidah Umm Salamah said: *It will suffice if water reaches the roots of your hair. She needn't to wet the strands of her hair.* » This is the correct ruling - due to the difficulty involved.

Unlike with the beard, there is no difficulty in making water reach its roots.

- The necessitators of ghusl are as follows: 1) Ejaculation of a man or woman by way of force or lust, whether asleep or awake.

Shafi'i: He says that sperm necessitates ghusl, no matter how it exited. He supports this with the hadith: *Water due to water.* Meaning: Ghusl becomes necessary due to sperm. In the hadith there is no restriction of lust etc.

We retort: The command of purifying prerequisites the state of impurity - جنابة (see the verse mentioned prior). The lexical definition of جنابة: Exiting of sperm by way of lust. It is said: أجنب الرجلُ, when he gratified his lust. So the hadith is made to accord this meaning - i.e. exiting due to lust.

Intra-school dispute:

Abu Hanifa and Muhammad say that what is factored in is departure from place of origin (انفصال عن مكانه) by way of lust. So the actual immediate appearance of the sperm in the state of lust is not necessary (e.g. someone orgasms but holds his sperm in until his lust recedes and then lets the sperm out).

Abu Yusuf also factors in appearance (ظهور) during lust. So in the mentioned example, ghusl wouldn't become necessary as per Abu Yusuf.

The **fatwa is upon the Tarafayn's statement.**

- 2) Penetration, even without ejaculation.

Based on the hadith of the Holy Prophet: *When the private parts meet and the head of the penis disappears, then ghusl becomes incumbent - whether ejaculation took place or not.*

Penetration is the cause for ejaculation and the ejaculation becomes invisible upon penetration, sometimes it is not even perceived due to paucity (قلته). Hence, the disappearance of the head of the penis replaces ejaculation as a cause.

The same goes for anal penetration (without ejaculation), due to completeness in being a cause. Ghusl will also be incumbent upon the penetrated person out of precaution (perhaps he enjoyed it and ejaculated and maybe he didn't and didn't ejaculate - but precaution is desired).

Penetration will not become necessary due to bestiality (without ejaculation), oral penetration, and anything else that isn't a vagina, because their being a cause is incomplete.

Note: Precum will break wudu in all the aforementioned cases, so even if ghusl is not wajib, wudu will be.

- 3) Menses and post-natal bleeding.

With consensus.

- Ghusl has been made Sunnah by the Holy Prophet for Friday prayer, the two Eids, Arafah and Ihraam.

Qudoori stipulated these to be Sunnah - which is correct. Some have said it is مستحب on these occasions. Muhammad called ghusl on Friday good (حسن), i.e. Sunnah (were it to be something of a higher degree, then he would not have called it حسن).

Malik deems it to be Wajib, basing it on the Hadith: *Whoever reaches Friday, let him perform ghusl.*

Our proof is the following hadith: *Whoever performs wudu on Friday has done a good thing and he who performs ghusl, then that is better.*

The ghusl is for performed for the prayer, not the day itself. Hence, if the Jum'ah prayer were not Wajib upon someone, it wouldn't be Sunnah for him to do ghusl. Hasan bin Ziyad opines that it is for the day itself.

The two Eids are like Jum'ah, in the sense that a gathering takes place there too, hence doing ghusl is preferred, doing away with any potential stench.

- Ghusl doesn't become necessary due to precum and Wad'yi.

This is supported by the hadith: *Every man pre-ejaculates and that necessitates wudu.*

Sperm (مني): A thick, white fluid that causes the penis to become soft upon its release.

Pre-ejaculation/Precum (مذي): A thin, white-ish fluid that exits during foreplay. (This detail is narrated by Sayyidah Aisha.)

Wad'yi (وَدْي): A thick substance that comes after urinating - sperm mixed with urine.

THE CHAPTER OF WATER YOU CAN AND CAN'T PERFORM WUDU WITH

Preface: Before this chapter is delved into, the definition of ماء مطلق should be clarified. Its definition consists of 3 parts - it is such water that:

1. remains upon its thin, flowing nature;
2. is not dominated by another substance in terms of amount;
3. and another substance didn't mix with it, causing its name or purpose to change.

Based on this definition, if some saffron was added to water, it would remain ماء مطلق, but if a lot was added in order to dye clothing, it wouldn't remain ماء مطلق due to the absence of #2 and #3.

When water mixes with something that is **pure** you only consider the following:

1. Thinness and flowing ability (رقة و سيلان)
2. Name of the new mixture

When an **impurity** (نجاسة) falls into water you consider the following:

1. Taste
2. Smell
3. Color

- Purifying from impurities can be done with rainwater, valley water, spring water, well water, and sea water.

Support from the Qur'an:

وَأَنْزَلْنَا مِنَ السَّمَاءِ مَاءً طَهُورًا (48 al-Furqan)

(The word طهور is مبالغة)

Support from Hadith: The Holy Prophet said: Water is a purifier and nothing makes it impure save that which alters its color, taste or smell.

As well as the hadith regarding sea water: Its water purifies and its dead are lawful.

The generality of the word ماء applies to these mentioned waters.

- Wudu is not permissible with that which is squeezed out from a tree or fruit.

That is because it is not deemed to be ماء مطلق; upon the absence of ماء مطلق the ruling transfers to tayammum. The stipulation of the mentioned body parts in tayammum is not rationalized. In spite of that, the ruling will not transfer to something that is unstipulated by the Book or Sunnah (غير منصوص عليه).

Note: The commentator of Hidayah mentions that performing wudu with `water` (sap) that exits on its own from grapevines is permissible because it is not squeezed. This is mentioned in the Jawami' of Abu Yusuf and in Mukhtasar Qudoori. The cause (علة) is seemingly made out to be

squeezing (اعتصار); however, the ruling and the cause are incorrect. It is not permissible as per Fatawa Shaami.

- Nor with water that's been dominated by something else, such as tree sap, vinegar, rose water, kidney beans water, shorwa, and safflower water.

In these cases water mixes with a pure substance, so the two factors (mentioned prior) will be taken into consideration, as well as the definition of ماء مطلق. We find that the name of the new mixture changes, which means it isn't ماء مطلق anymore. What is meant with kidney beans water is water that is used to cook the kidney beans - it becomes thick, thus changing water's nature of being thin.

- Purification is permissible with water that is admixed with a **pure** substance that alters 1 [or 2 or all 3] of the 3 attributes [i.e. smell, taste, and color]. [It is permissible granted that the thinness remains.] Like flood water and water mixed with some saffron, soap or grass.

The commentator states: In Mukhtasar, safflower water has been likened to shorwa (i.e. you can't do wudu with it); however, Abu Yusuf likened it to saffron water (thus deeming it permissible.) This is the correct opinion as per Natifi and Sarakhsi.

Shafi'i: You can't do wudu with saffron water and its likes which also aren't from the genus of the earth (i.e. those things you can do tayammum with). The reason being that it is restricted water (ماء مقيد). You say: "water of saffron" [thus restricting it]. As opposed to water containing particles from the genus of the earth, as that's generally unavoidable.

We retort: The name of water remains general, a new name isn't separately established for it. The إضافة is of تعريف, not تقييد. Besides, the admixing that is mentioned is of a small amount, which is not considered anyway, due to the impossibility of preventing it. Thus the predominant (of the 2) is considered, i.e. the water itself. Predominance is established by the amount of particles, not color - this is the correct opinion.

- If [the nature of water] changes due to cooking after its admixing with something else, then wudu can't be performed with it.

The nature of water is in reference to thinness. The reason for the ruling stems from its no longer being as it was sent down from the sky (i.e. no longer ماء مطلق).

The only exception is if something is being cooked in the water that would increase its cleanliness (in other words: something that would improve its smell), like grass etc. The proof for this is the fact that the dead are washed with water in which lotus tree leaves are boiled, as per the ahadith.

The exception to this exception would be if the leaves dominate the water. At that point it would be like a paste; the name and thinness of water would be lost.

- All [non-flowing] waters in which an impurity fell can't be used to performed wudu, be the impurity be a lot or a little.

Malik: You still can as long as 1 of its 3 attributes hasn't changed. He reasoned it with the hadith regarding nothing impurifying water (mentioned prior).

Reply: This was regarding the well of Buda'ah, which contained flowing water.

Shafi'i: You can, if the water is at least 2 Qullats, because the Holy Prophet said: *If water has reached the amount of 2 Qullats, it won't carry any impurity.*

Reply: This hadith has been weakened by Imam al-Ayni in his commentary of Abu Dawud.

Other proofs: The hadith about a person waking up after sleeping, as well as: *Let none of you urinate in still water, nor perform ghusl - due to being impure - in it.* When the Prophet said this, he didn't mention anything regarding Qullats.

- If an impurity falls into flowing water, you can perform wudu with it as long as you can't see its trace.

Preface: Definition of flowing water:

1. It enters (دخول)
2. It exits (خروج)
3. Both #1 and #2 at the same time (معيّة)

That is because the impurity does not remain in flowing water. Trace refers to taste, color, and smell. "Flowing" refers to that whose usage isn't repeated; it is also said: It is that which takes a splinter away.

- If an impurity falls into one side of a large pond - one so large that if ripples are caused on one side, they don't cause ripples on the opposite side - then you can do wudu on the other side.

That is because movement (ripples) is quicker to traverse in water than impurity, so if ripples don't reach the other side, neither would the impurity.

The question arises: What is meant by the causation of ripples/movement?

1. **Abu Hanifa:** Movement/Ripples that are caused by jumping into the pond to perform ghusl.
2. **Abu Yusuf:** 1) The same as Abu Hanifa. 2) Another opinion of his: Ripples caused by moderately moving the hand in the water.
3. **Muhammad:** Movement caused by performing wudu (i.e. not jumping in the pond).

Muhammad's view is the **most correct**.

Some scholars have stipulated that "a large pond" is that whose area is 10 by 10 Kirbasi cubits - that equals 225 squared ft, which is 20.9 squared meters. This measuring was done to make the affair easier on the people. The fatwa is on this view.

Depth is also taken into consideration, it should be at least so deep that the ground doesn't uncover by the scooping of some water. (Imagine a massive puddle of rain that is so undeeep that if you were to scoop some water, the ground would uncover.) This is the correct view.

When it says in Qudoori: "*Wudu is permissible from the opposite side*," there is a hint towards the space where the impurity fell being impure. It is narrated from Abu Yusuf: The matter is [that the space where the impurity fell] does not become impure, except by the appearance of the effects of the impurity. (Say that rock solid dog poop fell into the water and no particles of it dissolve, nor is the color, taste or smell affected, in that case the water stays pure. Were any of the previously mentioned things to alter, then that side does become impure.)

- When a dead creature that doesn't have flowing blood falls into the water, it will not impurify the water. E.g. mosquitos, flies, wasps, scorpions etc.

Preface: What constitutes as blood? The definition of (flowing) blood is as follows: Blood that blackens when put under sunlight. This would be the blood of any common animal, including human blood. Other kinds of blood, like that of a fish, aren't deemed blood according to fuqaha, because when their blood is put under sunlight, it whitens. Moreover, even according to current science small insects like flies, wasps etc. don't have actual blood.

Shafi'i says: That will impurify the water. Because the tahreem that is not established due to honor is a sign of that thing's impurity. The exception to that would be [dead] maggots and worms found in honey and fruit, because there's hardship in that.

Explanation: Imam Shafi'i says that tahreem for consumption is established in two ways: 1) the thing is honorable (e.g. human meat) or 2) otherwise (i.e. being filth). According to his view, whatever is made haraam because of #2 will automatically be impure too, i.e. haraam for consumption = impure.

Our reply: We use the hadith of the Prophet where he spoke of water in which something falls that doesn't contain flowing blood: *This [water], it is permissible to eat, drink, and perform wudu from.*

The impurifying factor according to us is the admixing of flowing blood with the particles of water when it is dead. To the point that if a slaughtered animal fell into the water, the water wouldn't become impure, because there is no blood to admix left. So impurity isn't an inseparable consequence [laazim] of tahreem.

Shafi'i his view is **dismantled** by the fact that there are things which haraam but pure in essence. An example would be soil - soil in itself is pure, but eating so much that you start to damage your health is haram.

- A dead creature that lives in the water doesn't impurify water if it died inside it. E.g. fish, (water) frogs, and (water) crabs.

Definition of water creatures: That which is born and resides in the water.

Shafi'i says: All dead water creatures inside of water impurify it, except for fish. He opined this given what was mentioned earlier (i.e. he believes that tahreem = impurity).

We respond: The creature died in its natural habitat, so we don't declare it to be impure - similar to an egg whose yolk changed into blood. (Say you had an egg in your pocket whilst praying and the yolk changed into blood, your prayer remains valid, as the blood is in its habitat.) Not only that, these creatures don't have real blood either (as defined by the fuqaha). Animals with flowing blood don't reside in the water.

If dead water creatures are in non-water (e.g. juice, vinegar etc.) they will impurify that liquid, due to that not being their natural habitat. It is also said that they still wouldn't impurify the non-water, due to the absence of blood. This is the most correct view.

According to some, the land and sea frog are equal (in that they don't impurify water). It is also said that the land frog does impurify water if found dead in it, as it contains flowing blood and it'd be outside its natural habitat.

That which lives in the water but isn't born in it, will impurify water if found dead in it (e.g. ducks).

- Used water (ماء مستعمل) doesn't purify, i.e. it doesn't remove impurities.

(The definition of ماء مستعمل can be found in the next bullet point.)

Malik and Shafi'i: ماء مستعمل is طاهر and مطهر all the time, until it stops purifying. It is on the scale of قطوع (an اسم مبالغة which means cutting over and over).

Zufar (and Shafi'i acc. to 1 view of his):

- A. If a متوضي uses fresh water, the water will be طاهر and مطهر.
- B. But if a محدث (whose حدث is حكمًا not حقيقة) uses fresh water, it remains طاهر but becomes غير مطهر

So in his view he distinguishes between a متوضي and a محدث person using fresh water. His ruling on the latter is based on the fact that his body parts were already pure in reality (حقيقة), so in that sense the water remains طاهر. But the impurity was in terms of ruling (حكمًا), so in that sense the water is impure now (نجس). So he rules that in case B the water will lose its purification ability (طهورية) but retains its purity (طهارة) - thus acting upon both obscurities that arise.

Muhammad and Abu Hanifa: ماء مستعمل is طاهر but غير مطهر in any case (whether a person was متوضي prior or not). The reason why the water is طاهر is because pure (body part) + pure (water) ≠ Being impure. However if usage with the intention for reward is found, the attribute of the water changes (more on this underneath the next bullet point), so it becomes like wealth allocated for Zakah (i.e. wealth in general is permissible to give out to anyone, but when you intend to give a specific portion as Zakat, that portion can now not be received by The Prophet's family and their descendants).

Abu Yusuf and Abu Hanifa: ماء مستعمل is impure (نجس). They base this on the Hadith: Let none of you urinate in still water nor perform ghusl in it due to being impure (من الجنابة). The other basis is that since water with which نجاسة حقيقية is removed becomes impure itself (by transfer of impurity), so will the ruling be for نجاسة حكمية. Hasan bin Zayaad and Abu Yusuf both narrate from Abu Hanifa the type of نجس the ماء مستعمل will be; they are (respectively):

1. غليظة (major) - based on the نجاسة حقيقية with قياس;
2. خفيفة (minor) - because there is disagreement, this results in lightening of the ruling.

The **fatwa** is upon **Muhammad's** view.

- [The definition of] ماء مستعمل: It is water with impurity (حدث) is removed **OR** it is used on the body by way of gaining reward [with an intention].

(The previous bullet point informed regarding the ruling of used water - i.e. is it pure and purifying or not etc. - this section defines used water.)

Abu Yusuf (and Abu Hanifa): What this means is that water becomes ماء مستعمل in two ways:

1. By removing impurities, be they حقيقي or حكمي. E.g. a محدث using water to perform wudu (with or without intention of reward), by usage of the water he removes the impurities from his body.
2. By using the water to gain reward, this is bound by an intention though. E.g. a متوضي using water to perform wudu upon wudu for blessings. He isn't removing any impurities from his body, but by his intention for reward the attribute of the water changes (as mentioned prior). Had he not made an intention, the water would not become ماء مستعمل, as no impurities are removed and no intention for reward is made.

Muhammad: Water only becomes used by the establishment of reward (i.e. if somebody makes the intention to gain reward by its usage). So if somebody uses fresh water for wudu but doesn't make an intention for reward, then he will attain purity, but the water won't be ماء مستعمل as no intention for reward was present. He reasons that usage (استعمال) is by transfer of impurities of the sins to the water - which only occurs through intention of reward.

Abu Yusuf adds: Fulfillment of the fard also has an affect on the water, so the tainting (فساد) of the water is proven by two things: removal of impurities and intention of reward.

At what exact moment does water become مستعمل?

The correct view is that it becomes used as soon as it separates from the body part. Logic might dictate that it becomes used after moving from where it landed, but then water could never flow over the body parts, unfulfilling the condition of wudu (i.e. making water flow). So this ruling - that water becomes used after separating from the body part - is out of necessity.

Scenario: A ritually impure man (جنبي) - whose impurity is حكمي, not حقيقي (i.e. there is no sperm etc. on his body) - falls and submerges in a well (less than 10x10 and non-flowing water); he fell because he was seeking a bucket (so no intention of reward prior).

What happens to the man and to the water?

Abu Yusuf: The man will remain impure and the water will remain pure. He conditions in ماء قليل (that which is less than 10x10 and non-flowing) that one must pour water over himself in order to fulfill the fard. So given that neither إزالة الحدث الحكمي takes place (as there is no الحدث الحقيقي), nor usage based on intention of reward, the man will remain impure and the water remains pure and غير مستعمل (unused).

Muhammad: Both are pure; the man will become pure by إزالة الحدث الحكمي - as pouring is not a condition according to him; the water will remain pure - as it isn't مستعمل (due to lack of intention reward).

Abu Hanifa: Both are impure; the water was pure at first, then the man fell in and became purified; however, his impurities (which are حكمي) transferred to the مستعمل water (which is impure according to him). Since the purified man is in impure water, he becomes impurified once again. Also narrated from him: The man will be pure, because the water isn't ruled to be used prior to separation from the body. The latter is the most appropriate narration from him.

- Every [raw] skin that has been tanned becomes pure. Performing prayer on it and wudu from it is permissible, save with the skin of a pig/swine and human being.

(Note that "every skin" only refers to that which can be tanned, it doesn't include that which can't be tanned in the first place. Hence, snake and mice skin aren't pure.)

Proof: Statement by the Prophet: "*Whichever skin has been tanned becomes pure.*"

Malik: Tanned skin of carrion (animals that died not by slaughtering) doesn't become pure. His proof (Hadith): "*Do not derive benefit from the carrion by use of its (raw) skin.*"

Reply to Malik:

1. The word skin (إهاب) is general (as it is نكرة), so skin of carrion is allowed too.
2. The prohibition in the hadith doesn't contradict our position; the word "raw skin" is another word for "untanned" (غير المدبوغ). Post-tanning the raw skin then becomes pure.

Shafi'i: The skin of animals that are forbidden to eat (ما حرم أكله) is impure (نجس), e.g. dogs, likewise with human skin.

Reply to Shafi'i:

1. A dog is not impure in its essence (نجس العين); we utilize them for guarding and hunting. In opposition to pigs, as they are impure in their essence. **أَوْ لَحْمٌ خَنْزِيرٍ فَإِنَّهُ رَجَسٌ** (al-An'aam 145).
2. Human skin is impermissible to consume and utilize due to its honor, not being impure.

So tanned dog skin is allowed to be used and human skin wasn't included in the first place.

Definition of tanning: Whatever prevents rotting and decay of skin. Be it by drying under the sun or with dust, as the goal (preventing rotting) is thereby achieved. We don't condition anything else like the use of leaves etc.

Whatever animal's skin becomes pure by tanning, also becomes pure by Islamic slaughter. That is because it does the same thing as tanning, i.e. removing impure liquids and other impurities. Likewise, its meat will be pure too, even though it's not to be eaten; that is the correct opinion. (Note that we say animals are of two types: **مأكول اللحم** and **غير مأكول اللحم**. Just because the latter's skin and meat become pure doesn't mean they can be consumed. All it would mean is that if you were to pray with its meat in your pocket, your prayer would be valid.)

- Hair and [fatless] bones of a carrion are pure.

Shafi'i: They are impure as they are parts of a carrion (which is impure).

We retort: They are lifeless, no pain is caused by cutting them. Death doesn't indwell them, as death is the ending of life (and that was never there).

- Human hair and bones are pure.

Shafi'i: They are impure, because you are not allowed to derive benefit from them (even though you could). Thus you can't sell it.

We retort: They are pure, the prohibition of deriving benefit is due to its honor. That doesn't denote upon its being impure.